

DD/S

71-3321

DD / S R E G I S T R Y

20 AUG 1971

FILE

*Security 4*

**MEMORANDUM FOR:** Mr. William H. Rehnquist  
Chairman, Security Review Committee

**SUBJECT:** Safeguarding Official Information in the  
Interests of the Defense of the United  
States (Executive Order 19591, as  
amended)

1. Pursuant to your request, we have reviewed the Atomic Energy Commission (AEC) paper captioned "Actions to Patently Indicate Objective of Preventing Excessive Classification" and submit the following comments.

2. From a legal point of view we believe that the revisions proposed by our Office of General Counsel as set forth in our memorandum dated 26 August 1971 in reply to your 5 August 1971 paper) would meet many of the AEC's basic objectives. Furthermore, by the gradation of offenses there is eliminated one of their concerns that sanctions for misuse of confidential information presently come under the Espionage Laws. In the proposed revision this is no longer the case. There are specific sections dealing with mishandling of information which are separate from the sections dealing with espionage.

3. In addition to the legal aspects of one of the AEC proposals, it is our view that the elimination of CONFIDENTIAL as a defense and foreign relations classification would degrade the SECRET category in that an original classifier would be faced, in many cases, with either not classifying a document or placing it in the SECRET category. In most cases, we feel he would classify it SECRET thus devaluating the concept of SECRET which should be maintained. Moreover, there would always be a risk that some data which should be protected might not be with a deleterious effect on our national defense and/or foreign relations interests.

4. AEC's other proposal to recast the CONFIDENTIAL level of classification from "the unauthorized disclosure of which could be prejudicial to the national security interests of the nation" to "the unauthorized disclosure of which would normally be expected to cause serious harm to the national defense of the U. S. or its conduct of foreign relations," seems to us to draw too fine a line between CONFIDENTIAL and SECRET. Since "grave" and "serious" are synonymous the only difference between SECRET and CONFIDENTIAL in the AEC proposal is as follows: In the SECRET category the unauthorized disclosure "would cause grave harm to the nation" while in the CONFIDENTIAL category unauthorized disclosure "would normally be expected to cause serious harm to the nation." The degree of harm would be identical in both. We believe that most classifiers would have difficulty making a judgment between SECRET and CONFIDENTIAL under this proposal. Moreover it has been suggested that penalties and sanctions for the unauthorized disclosure of CONFIDENTIAL data be relatively light as compared to those for TOP SECRET and SECRET. Under the AEC proposal, although the degree of damage to the national interest would be about the same if CONFIDENTIAL or SECRET information were improperly disclosed, the sanctions levied would vary widely depending upon the classification of the document and not upon the degree of damage to the nation.



CIA Member

cc: Mr. Howard C. Brown, Jr. - AEC  
Mr. Joseph J. Liebling - Defense  
Mr. William D. Blair, Jr. - State  
Mr. Thomas K. Latimer - NSC

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**SUBJECT:** Safeguarding Official Information in the Interests of  
the Defense of the United States (Executive Order  
10501, as amended)

**CONCURRENCES:**

*1-1 John S. Wainer*  
*for* **Lawrence R. Houston**  
**General Counsel**

**20 AUG 1971**

**Date**

**S I G N E D**

**John W. Coffey**  
**Deputy Director**  
**for Support**

**20 AUG 1971**

**Date**

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